

**IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF DELAWARE**

IN RE TRICOR DIRECT PURCHASER  
ANTITRUST LITIGATION

C.A. No. 05-340 (KAJ)

THIS DOCUMENT RELATES TO:

(consolidated)

## ALL ACTIONS

IN RE TRICOR INDIRECT PURCHASER  
ANTITRUST LITIGATION

C.A. No. 05-360 (KAJ)

THIS DOCUMENT RELATES TO:

(consolidated)

## ALL ACTIONS

## JOINT STATUS REPORT

Pursuant to this Court’s Scheduling Order dated October 27, 2005 (the “Scheduling Order”), Coordinated Direct Purchaser Plaintiffs<sup>1</sup>, Indirect Purchaser Class Plaintiffs, and Indirect Purchaser Plaintiff Pacificare Health Systems, Inc. (“Pacificare”), (collectively “Plaintiffs”), and Defendants Abbott Laboratories (“Abbott”), Fournier Industrie et Sante, and Laboratories Fournier (“Fournier”) (collectively, “Defendants”) by and through their counsel, hereby submit this Joint Status Report.

### A. Discovery

1 In March 2006, American Sales Company, Inc. (“ASC”) filed an action, which was assigned to Judge Jordan as a related case. ASC is represented by the same law firms that represent the Walgreen Plaintiffs and its complaint is substantively identical to the complaint in the Walgreen case. The parties have agreed that the ASC case will be subject to the case management and scheduling orders already entered by the Court. The parties have also agreed that Defendants’ obligation to respond to the complaint will be suspended until the Court rules on the pending motions to dismiss and that the Court’s ruling on those motions will be binding on the parties to the ASC case. The parties have not completed document discovery with respect to ASC.

At this time, all parties have actively begun discovery. On March 2, 2006, the Court entered a Protective Order Governing Confidential Information. All parties served requests for production of documents and/or interrogatories, the majority of which have been completed. The status of ongoing discovery is detailed below:

1. Defendants served requests for production of documents on the Coordinated Direct Purchaser Plaintiffs and Coordinated Indirect Purchaser Class Plaintiffs on September 30, 2005. Direct Purchaser Plaintiffs Louisiana Wholesale Drug Company, Meijer, Inc., and Rochester Drug Co-Operative served responses and objections to Defendant's document requests on October 31, 2005 and have produced documents pursuant to Defendants' Requests. Direct Purchaser Plaintiffs CVS Pharmacy, Rite Aid, and the Walgreen's Plaintiffs served responses and objections to Defendants' document requests on November 1, 2005, and have produced documents pursuant to Defendants' requests. Indirect Purchaser Plaintiff Pacificare served its responses and objections to Defendants' document requests on October 31, 2005, and have produced the majority of their discoverable documents to Defendants. Pacificare has one remaining set of documents which will be produced to Defendants by May 19, 2006.

2. All parties agreed to, and the court approved, an extension of time until March 15, 2006, to complete production of documents responsive to document requests served on or before October 1, 2005. Direct Purchaser Plaintiffs purported to complete their productions prior to the March 15, 2006 deadline. Defendant Abbott purported to complete its production on or around March 27, 2006. Defendant Fournier purported to complete its production on or around May 16, 2006.

3. All Purchaser Plaintiffs joined in serving document requests on Counterclaim Plaintiff Teva on January 19, 2006, and Teva has responded to those requests. All Purchaser Plaintiffs joined in serving document requests on Counterclaim Plaintiff Impax on January 26, 2006, and Impax has responded to those requests.

4. On March 3, 2006, the Court held a telephonic conference addressing discovery disputes between Coordinated Direct Purchaser Plaintiffs and Defendants. As a result of that conference, the Court ordered Defendants to produce certain documents related to the drug Hytrin. Abbott has not completed its production of those documents, and the parties continue to confer regarding what materials will satisfy the Court's order.

5. Coordinated Direct and Indirect Purchaser Plaintiffs initially noticed on Defendant Abbott a FRCP 30(b)(6) Deposition to be held on February 21, 2006. Defendant Abbott objected to the deposition notice, and Coordinated Direct and Indirect Purchaser Plaintiffs filed an amended 30(b)(6) Notice of Deposition. Defendant Abbott subsequently produced Joseph Fiske for a deposition pursuant to 30(b)(6) on April 21, 2006.

6. On May 8, 2006, Defendant Abbott noticed depositions pursuant to FRCP 30(b)(6) on the following parties: 1) Painters' District Council No. 30 Health and Welfare Fund; 2) Vista Health Plan, Inc.; 3) Pennsylvania Employees Benefit Trust Fund; 4) Allied Services Division Welfare Fund; 5) Philadelphia Federation of Teachers Health and Welfare Fund; and 6) Local 28 Sheet Metal Workers. The parties are currently discussing appropriate dates and locations to convene these depositions.

## **B. Motion Practice**

Pursuant to the Scheduling Order, as amended by this Court on October 19, 2005, Defendants filed motions to dismiss on October 19, 2005. Plaintiffs filed their responses to Defendants' motions on December 2, 2005. Defendants' reply was filed on December 23, 2005. Teva and Coordinated Direct Purchaser Plaintiffs each filed a separate supplemental letter on January 4, 2006, Impax filed a supplemental letter on January 5, 2006, and Defendants filed a supplemental letter on January 17, 2006. Oral argument on the motion was held on March 15, 2006. The Walgreen and CVS Plaintiffs filed a supplemental letter on May 15, 2006.

Pursuant to the Scheduling Order, as amended on May 5, 2006, Indirect Purchaser Plaintiffs and Direct Purchaser Plaintiffs filed their Motions for Class Certification and Opening Briefs in Support Thereof on May 8, 2006.<sup>2</sup> Responding papers must be filed by July 14, 2006, and reply papers must be filed by August 18, 2006.

There are no other motions or matters for decision pending before the Court.

/s/ Anne Shea Gaza

Frederick L. Cottrell, III #2555

Anne Shea Gaza #4093

RICHARDS, LAYTON & FINGER

One Rodney Square

Wilmington, DE 19801

*Counsel for Fournier Industrie et Sante and Laboratories Fournier S.A.*

/s/ James W. Parrett, Jr.

Mary B. Graham #2256

James W. Parrett, Jr. #4292

MORRIS, NICHOLS, ARSHT & TUNNELL

1201 N. Market Street

P.O. Box 1347

Wilmington, DE 19801

*Counsel for Abbott Laboratories*

/s/ A. Zachary Naylor

Pamela S. Tikellis #2172

Robert J. Kriner, Jr.

A. Zachary Naylor #4439

Robert R. Davis

CHIMICLES & TIKELLIS LLP

One Rodney Square

P.O. Box 1035

Wilmington, DE 19899

*Counsel for Indirect Purchaser Class Plaintiffs*

---

<sup>2</sup>

Indirect Purchaser Plaintiffs simultaneously filed a motion for appointment of class counsel.

/s/ Carmella P. Keener

Jeffrey S. Goddess #630

Carmella P. Keener # 2810

ROSENTHAL MONHAIT GROSS & GODDESS

919 Market Street, Suite 1401

P.O. Box 1070

Wilmington, DE 19899-1070

*Counsel for Direct Purchaser Class Plaintiffs*

/s/ Elizabeth M. McGeever

Elizabeth M. McGeever #2057

PRICKETT JONES & ELLIOTT

1310 King Street

P.O. Box 1328

Wilmington, DE 19899-1328

*Counsel for CVS, RiteAid and Walgreen*

/s/ Jonathan L. Parshall

Jonathan L. Parshall #3247

MURPHY SPADARO & LANDON

1011 Centre Road, Suite 210

Wilmington, Delaware 19805

*Counsel for Pacificare Health Systems, Inc.*

**CERTIFICATE OF SERVICE**

I hereby certify that on this 16<sup>th</sup> day May, 2006, I electronically filed **JOINT STATUS REPORT** with the Clerk of the Court using CM/ECF which will send notification of such filing to all counsel of record.

/s/ Jonathan L. Parshall  
Jonathan L. Parshall  
Murphy Spadaro & Landon  
1011 Centre Road, Suite 210  
Wilmington, DE 19805  
(302) 472-8100  
jonp@msllaw.com